



**Rule(s) Review Checklist Addendum**  
(This form must be filled out electronically.)

**This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.**

All responses should be in **bold** format.

Document(s) Reviewed (include title): **WAC 458-20-102, Resale certificates**

Date last reviewed: **May 3, 2000**

Reviewer: **Gilbert Brewer**

Date current review completed: **September 12, 2002**

Briefly explain the subject matter of the document(s): **This rule helps buyers and sellers accurately identify and sufficiently document their wholesale sales. The rule helps taxpayers avoid the consequences of misusing resale certificates (subject to 50% penalty) or failing to collect/pay the retail sales tax on retail sales.**

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

**1. Public requests for review:**

YES	NO	
	<b>X</b>	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

**2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs:** (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	<b>X</b>	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
<b>X</b>		Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the



		information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	<b>X</b>	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
<b>X</b>		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	<b>X</b>	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

**The following information should be incorporated when Rule 102 is next revised.**

- **ETA 2008.08.12.178 (Deferred sales tax) -- the rule should include the ETA's explanation of the distinction between deferred sales tax and use tax.**
- **Det. No. 00-150, 20 WTD 432 (2001), and Det. No. 00-150R, 20 WTD 442 (2001) -- the rule should clearly state that deferred sales tax is due even if the inventory (previously purchased under a resale certificate) is withdrawn for use out of state.**

**3. Additional information:** Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

**4. Listing of documents reviewed:** The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

- **ETA 2008.08.12.178 (Deferred sales tax)**

Court Decisions:

Board of Tax Appeals Decisions (BTAs):



Appeals Division Decisions (WTDs):

- **Det. No. 97-238, 18 WTD 215 (1999)** -- deliberate misuse of resale certificates supported imposition of 50% evasion penalty against taxpayer.
- **Det. No. 95-078R, 18 WTD 378 (1999)** -- contractor is liable for retail sales tax on materials purchased directly by his customers who used the contractor's resale certificate and did not pay retail sales tax on the purchases.
- **Det. No. 99-104, 19 WTD 76 (2000)** -- taxpayer does not incur retail sales tax when it purchases materials with the intent to execute a sale/leaseback, presents a resale certificate at the time of purchase, and the lender has executed the sale/leaseback commitment before the purchase is made.
- **Det. No. 00-045, 19 WTD 965 (2000)** -- taxpayers who never "actually and regularly engaged in selling the type of property purchased" could not qualify for the issuance of a valid resale certificate
- **Det. No. 00-150, 20 WTD 432 (2001) and Det. No. 00-150R, 20 WTD 442 (2001)** -- taxpayer who purchases inventory with a valid resale certificate and subsequently withdraws some of the articles from inventory and distributes them outside the state as free samples is liable for deferred sales tax.

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

**5. Review Recommendation:**

- \_\_\_\_\_ **Amend**
- \_\_\_\_\_ **Repeal/Cancel** (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.)
- X**   **Leave as is** (Appropriate even if the recommendation is to incorporate the current information into another rule.)
- \_\_\_\_\_ **Begin the rule-making process for possible revision.** (Applies only when the Department has received a petition to revise a rule.)

**Explanation of recommendation:** Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).



**Similar to the prior reviewer's finding, it appears that the rule has continued to work well. Since the additional revisions suggested above are of relatively minor importance, I would continue to recommend that no immediate action be taken with regard to Rule 102. However, the revisions suggested by the prior reviewer and in this review should be incorporated in a future revision of the rule.**

**6. Manager action:** Date: \_\_\_\_\_

\_\_\_\_\_ Reviewed and accepted recommendation

Amendment priority:

\_\_\_\_\_ 1  
\_\_\_\_\_ 2  
\_\_\_\_\_ 3  
\_\_\_\_\_ 4